

## Huey Newton To Get Retrial In Slaying

OAKLAND, Calif. (AP) — The district attorney said Monday he "certainly" will try Black Panther cofounder Huey P. Newton a third time in the 1967 shooting death of a policeman. Newton's second trial ended in a hung jury.

A jury of 10 women and 2 men reported itself deadlocked 11-1 Sunday, and Superior Court Judge Harold Hove declared a mistrial. He ordered Newton to appear Tuesday before Presiding Judge William Hayes, who would schedule a new trial.

Alameda County Dist. Atty. Lowell Jensen was asked Monday if he would try Newton again in the Oct. 23, 1967, death of a police officer, John Frey. He replied: "Certainly, certainly. What do you think?"

"We would retry a case like this under any normal circumstances," Jensen said. "A case like this is not a normal case—it involves the slaying of a police officer, about the most serious offense we can think of."

He said a new trial date will be picked when Newton's case is routinely sent back to Hayes' court. Newton, 29, is charged with voluntary manslaughter in the fatal shooting of Frey during a street gun battle between Panthers and Oakland police.

At his first trial in 1968, Newton was charged with first degree murder but was found guilty of a lesser charge, voluntary manslaughter. He served 22 months of a 2-to-15 year sen-

tence before the conviction was overturned by the State Court of Appeal, which said the jury was improperly instructed on unconsciousness as a defense.

Newton, who is free on \$50,000 bail, told newsmen as he left court Sunday night: "I feel fine and ready for a fight."

"The jury in the second trial, which included one black, a woman, deliberated six days before reporting itself unable to reach a verdict.

"This shows that with at least one black person on the jury this means I can get a fair trial. A hung jury keeps me out of jail," Newton said later.

He and his attorney, Charles Garry, told newsmen they believed the majority was for conviction and the single vote for acquittal was by the black woman, Ruthie Ellis of Oakland.

Another juror, who asked not to be identified, said however the only juror dissenting from a majority for conviction was Juanita Henderson was unavailable for comment.